

REMARKS

Reconsideration of the subject application as amended herein is respectfully requested.

The Applicants would like to thank the examiner for the courtesy extended during the interview of July 12, 2011.

The claims have been reviewed amended to correct some typographical errors and to recite the invention more distinctly.

Briefly, as explained at the interview, the present invention pertains to a method for time shifting of programs of interest to a user on a buffering device. As described in the claims, once a program (or content) is identified as being of interest to a user, the buffering device starts buffering the program. The buffering device is set to buffer the program for a predetermined time that is shorter than the duration of the program. If during this predetermined time, a command is received by the buffering device indicating that the program being buffered should be presented to a user, then the buffering continues, preferably until the end of the program. However, if no such command is received by the end of the predetermined time, the buffering stops. Inherently, since the predetermined time is shorter than the duration of the program, the buffering device only needs to buffer only a portion, and not the whole program. Claim 11 describes the method as set forth above. Claim 32 further describes that if the command is received before the end of the predetermined period, the program is presented to the user automatically from its starting point. New claims 48 and 57 further

recite that at the end of the predetermined time period, if no command is received, the buffering device erases or flushes the buffered portion of the program.

New dependent claims 49-56 further describe some additional features of the invention, such as (a) the duration or time period for buffering is selected independently of the total duration or length of the program to be buffered; (b) the duration of buffering is selected before the program to be buffered is even detected; 9c0 the duration of buffering is constant for all programs; (c) the player or system have a storage space for buffering the size of which may change from time to time; and (d) the player or system may have a dedicated storage area of fixed size dedicated to buffering the program. These features are described or inherent from, *inter alia*, pars. 64 and 65 of the specification as filed.

A practical example may be useful for illustrating the invention. Suppose that the buffering device has determined that a program called THE NIGHT SHOW is of interest to a user and it starts on Monday night at 11:00 PM and runs for 90 minutes. The buffering device has been set for 30 minutes. At 11:00 PM the buffering device starts buffering THE LATE SHOW.

In one instance, at 11:15 PM a user activates a remote control or other user interface indicating that he wants to watch THE NIGHT SHOW. The buffering device receives a corresponding commands and starts presenting the program to the user, e.g., on a TV set from the beginning. The user starts watching the show and the buffering device keeps buffering the program as required.

In another instance, a user does not request THE NIGHT SHOW by 11:30 PM. In this case, the buffering device stops buffering the program at 11:30. In one embodiment, once the buffering stops. The buffering device erases or flushes the buffered portion of the program.

In all these instances, the program is buffered in a storage area that may either have a variable, but rather limited size or a fixed size and inherently the buffering duration is determined by the size of the storage area.

The Examiner keeps maintaining that the claims are obvious in view of Horvitz and Marsh. Both of these references are concerned with storing programs of interest to users. Both references provide schemes for identifying stale programs and erasing them to make room for new programs to be stored.

In addition to age, Marsh allows a user to provide additional criteria for erasing programs based on content. For example, a particular stored NIGHT SHOW does not mention the term "Major League Baseball," it gets erased even if it is not stale. However, it is important to note that the whole program is stored first before it is erased because the decision to erase it early or not cannot be made until the end of the show. ( See col. 7, lines 42-64). (Of course, a program cannot become "stale" until at least several days after it has been recorded). Marsh does not mention what happens during if a user starts watching a program while it is being buffered, i.e., before the end of the program. Moreover, Marsh does not cover any situations in which only a part of a program is stored.

As previously discussed, Horvitz also pertains to various schemes and rules for determining what programs to buffer and erasing stored programs after they become stale. Horvitz does discuss that a live program can be watched from the beginning if a user desires to watch it before it has ended. However, like Marsh, Horvitz never contemplates buffering only a portion of a program, or stopping the buffering of a program before the program has ended.

The examiner states in his rejection that Marsh discloses the concept of stopping the buffering of a program if a user does not start watching it before a predetermined time—referring to col. 7 lines 42-45, col. 5, lines 17-27). This concept requires that an action be taken by the buffering device while the buffering of a current program is taking place. Marsh never takes any action “live” ( i.e., while the program is being received and recorded). Instead, in Marsh, after the complete program is recorded, a decision is made as to whether to keep it or erase it. In the present invention, the program is never fully recorded. This feature is recited in all the claims and is not found in Marsh.

At the interview the Examiner indicated that the Marsh device could possibly operate in a manner that read on the claims as previously presented. For example, the Marsh device, according to the Examiner, could be programmed to review an episode of the Tonight show and, if the word BASEBALL is not mentioned, the recording could be stopped. The undersigned has pointed out to the Examiner that even in this instance, the Marsh device would have to wait until the end of the program before a determination could be made that the word BASEBALL has not been used.

The Examiner responded that the Marsh device could be programmed to stop before the actual end of the program, for example, when the end credits are presented. It is respectfully submitted that this interpretation is very far-fetched and speculative. However, in order to advance prosecution, the independent claims have been amended to avoid even this interpretation, by specifying that the buffering duration is independent of the duration of the program. The dependent claims 48-57 discuss additional limitations that are also missing from the prior art.

It is respectfully submitted that the application is patentably distinguishable over the prior art.

Respectfully submitted,

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